APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,970	01/17/2002	Yu-Chih Liu	BHT/3134-65	5417

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EXAMINER
PATEL, NIRAV B

ART UNIT	PAPER NUMBER
2135	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/046,970	LIU, YU-CHIN
	Examiner	Art Unit	
	Nirav Patel	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2002*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *N/A*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. This action is in response to the application filed on 1/17/2002.

2. Claims 1-11 are under examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
    (b) the invention was patented or described in a printed publication in this or a foreign country or in
    public use or on sale in this country, more than one year prior to the date of application for patent in
    the United.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Snyder

et al (US Patent No. 6,070,171).

As per claim 1, Snyder discloses:

using register number **[col. 4 lines 60-63 "this is a short piece of data: a**

combination or concatenation of the Base Serial Number (BSN) and other

information Current Token"] to licensing the client-side program **[col. 5 lines 24-26**

"special data (unique Base Serial Number and/or a Key data field) distributed with

the software to be tracked"];

as executing the program, automatically fetching (i.e. reading) the data of register

number and encrypting the data and then transmitting it to server to apply for

authorization **[col. 8 lines 34- 40 Fig. 2 "Prior to any execution of the Base Software**

Payload, the Tracker Client program reads the Current Token from disk 21 and
checks the validity 22 of the Current Token.   If Valid, the Current Token is
encrypted and check digits are added for transmission 24. The encrypted Current
Token is transmitted 25 to the Tracker Server program FIGS. 3a & 3b"];

after server accepting above request, checking the legality and the validity of the
register number, and then transmitting back the acknowledgment signal to client-side
computer [Fig 3a, 3b *col. 8 lines 64-65* "Current Tokens received from the Tracker
Client program 49 are decrypted and validated 41.   Validation may be by
decryption and/or check digits techniques" *col. 8 lines 40-41* "a response is
received from the Tracker Server program 26"];

after client-side receiving licensing signal from server [*col. 8 lines 40-41* "a response
is received from the Tracker Server program 26"], the program being unlocked and
operating normally [*col. 5 lines 65-67* "the Tracker Server will create a special "key"
and return it to the Tracker Client along with permission to execute the Software
Payload (in this case, the stock analysis program)" *col. 5 lines 41-43* "Tracker
Server programs, selectively provide the "key" to open the "lock" provided by the
present invention for controlling access to the Software Payload"].

                As per claim 2, the rejection of claim 1 is incorporated and further Snyder

discloses:

the register number is embedded in storage of client side [*col. 7 lines 6-7* **"the Base Serial Number is stored on the distribution medium, and may be placed onto the user's hard disk"**].

As per claim 3, the rejection of claim 1 is incorporated and further Snyder discloses:

communication protocol using special encrypting method is applied between client side and server side [*co. 8 lines 37-40* **"the Current Token is encrypted and check digits are added for transmission 24. The encrypted Current Token is transmitted 25 to the Tracker Server program"**].

As per claim 4, the rejection of claim 1 is incorporated and further Snyder discloses:

server checks the legality and the validity of the received register numbers and whether there are identical register numbers concurrently to apply for authorization [*col. 8 lines 63-64* **"Current Tokens received from the Tracker Client program 49 are decrypted and validated 41"** *col. 9 lines 5-17* **"the Current Token (CT) will have a Usage count 42 of zero. If the Base Serial Number is already in the database of the Tracker Server program 43, a copy of the disk is detected, and permission to enter the Tracker Server program is denied 44"** *col. 9 lines 18-62*].

As per claim 5, the rejection of claim 4 is incorporated and further Snyder

discloses:

illegal register number (for example: the register number does not exist or is expired)

[*col. 9 lines 36-42* **"Base Serial Number that is not in the TS database, then the**

Tracker Server program will conclude that the Current Token has been tampered

with (although the check digits should have guarded against this).   The TS

program will then declare the Current Token invalid and deny permission to

execute the Software Payload 62"] or invalid register number (for example: a "legal"

register number is received from a forbidden ip address) is found, the program at client

side can be set to forbid the executing of program or only partial function can be

executed [*col. 9 lines 42-47* **"if the Key of the incoming Current Token does not**

find a match in the TS database, the Key is bogus and permission to execute the

Software Payload is denied 64.   [, or, more likely, that it is an old Serial Number

being sent by a copy of the disk used by another person, and therefore deny

permission 61,62"].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such
> that the subject matter as a whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in
> which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder

(US Patent No. 6,070,171) and in view of Khan et al (US Patent No. 6,173,446).

As per claim 6, the rejection of claim 4 is incorporated. Snyder doesn't

explicitly teach that identical and valid register numbers find out concurrently and if they

don't exceed the original agreed number of users then authorization is permitted for the

client side to execute the full function of the programs (i.e. if number of users is greater

than the number authorized by software license then the server prevents any new user

to use the program).

However, Khan teaches that determine a concurrently connected unique

user (i.e. users have valid and identical register numbers) and if they don't exceed the

original agreed number of users then authorization is permitted for the client side to

execute the full function of the programs [*col. 6 lines 44-61* **"The server first**

determines a list of all active incidents, i.e. incidents which are currently in

progress (block 50)" "the server then counts the number of unique users (i.e.

users have valid and identical register numbers) **(block 56). If the number of unique**

users is greater than the number authorized by the software license" "and the

server 10 prevents any new and unique user from participating in the incidents

(block 60). Otherwise, the server 10 enables new and unique users to participate

in the incidents (block 62)"].

Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to incorporate the teaching of Khan into the

teaching of Snyder to determine the number of concurrent users and prevent any new

user to use the software if number of users are exceed than the number authorized by

software license. The modification would be obvious because one of ordinary skill in the

art would be motivated to use active client licensing method so that the system does not

rely upon the total number of users or the number of users connected to the system but

rather relies on the number of users for whom the server is performing a service at any

given time **[Khan, *col. 6 lines 41-44*]**.

5. Claims 7, 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Snyder (US Patent No. 6,070,171) and in view of Brandt et al (US

Patent No. 5,758,068).

As per claim 7, Snyder discloses:

the data **[*col. 4 line 51* Software program(s) and/or data]** that contains some or

many of following information: charging information (i.e. usage count), register number,

music, text, and movie **[*col. 4 lines 61-63* "This is a short piece of data: a**

combination or concatenation of the Base Serial Number (BSN) and other

information such as a changing "key" value and "usage" count"],

then transmitting the data to the storage of the user's device (or computer; computer is

one type of devices); when using the data that contains music, text or movie, etc *[col. 5*

lines 36-50 **"The stock information may alternatively be on the distributable**

medium, such as a floppy disk or CDROM, with the Software Payload" "when the

user installs the stock analysis program on a hard disk, the Tracker Client

program and the Serial Number are also installed"].

the client-side program automatically reading the data, register number and charging

information from the storage, after encrypting, it is transmitted to server to apply for

authorization *[col. 8 lines 34- 40* **"Fig. 2 Prior to any execution of the Base Software**

Payload, the Tracker Client program reads the Current Token from disk 21 and

checks the validity 22 of the Current Token. If Valid, the Current Token is

encrypted and check digits are added for transmission 24. The encrypted Current

Token is transmitted 25 to the Tracker Server program FIGS. 3a & 3b"];

after server receiving the above request, checking the legality and the validity of the

register number and charging, then transmitting back the acknowledgment signal to

client side **[Fig 3a, 3b** *col. 8 lines 64-65* **"Current Tokens received from the Tracker**

Client program 49 are decrypted and validated 41. Validation may be by

decryption and/or check digits techniques" *col. 8 lines 40-41* **"a response is**

received from the Tracker Server program 26"];

after client-side program receiving the acknowledgment signal from the server [*col. 8 lines 40-41* "a response is received from the Tracker Server program 26"],the required data to the types that can be read or played [*col. 5 lines 65-67* "the Tracker Server will create a special "key" and return it to the Tracker Client along with permission to execute the Software Payload (in this case, the stock analysis program)" *col. 5 lines 41-43* "Tracker Server programs, selectively provide the "key" to open the "lock" provided by the present invention for controlling access to the Software Payload"].

Snyder doesn't explicitly teach that data are encrypted and only be decrypted if registration is authorized.

However, Brandt teaches that data are encrypted and only be decrypted if registration is authorized [*col. 6 lines 16-20* "Access control is where the data on the distribution media are encrypted and can only be decrypted by "installing" software via information in a license key"].

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Brandt into the teaching of Snyder to use the enterprise key with access control. The modification would be obvious because one of ordinary skill in the art would be motivated to use enterprise key so that it is marked as having been generated on a particular system. This mark, or serial number of the system, is proof of when and where the key was generated and is used to determine if and how the software (or data) was stolen in such an event [Brandt, *col. 5 lines 56-60*].

As per claim 8, the rejection of claim 7 is incorporated and further Snyder

discloses:

communication protocol using special encrypting method is applied between client side

and server side **[co. 8 lines 37-40 "the Current Token is encrypted and check digits**

are added for transmission 24. The encrypted Current Token is transmitted 25 to

the Tracker Server program"].

As per claim 10, the rejection of claim 7 is incorporated and further Snyder

discloses:

the register number must be stored (or embedded) in storage of client side **[col. 7 lines**

6-7 "the Base Serial Number is stored on the distribution medium, and may be

placed onto the user's hard disk"]. But the register number is not necessary to be

transmitted to user by the same method, or at the same time with the other encoded

data **[col. 7 lines 20-30 "the current Token is a piece of data composed of the**

Base serial Number, and other fields. Then current token is sent from the Tracker

client program to the Tracker server program. If the transaction is successful, the

Tracker server program makes some modifications to the Current token, stores it

in a database and then sends it back to is the Tracker Client program. The new

Current Token is stored by tracker client program on the user's machine"].

As per claim 11, the rejection of claim 7 is incorporated and further Snyder

discloses:

the charging procedure (information) [i.e. Usage count] can be decided online by the

server according to the register number, so the charging information is not necessary to

be stored in the storage of client side [*col. 7 lines 33-37* **"The Usage count is used to**

track the number of times the Tracker Client program is used, and will be

incremented by the Tracker Server program"].

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder

(US Patent No. 6,070,171) in view of Brandt et al (US Patent No. 5,758,068) and in view

of Khan et al (US Patent No. 6,173,446).

As per claim 9, the rejection of claim 7 is incorporated and further Snyder

teaches that client sides have different and valid register number can use the same data

concurrently [*col. 6 lines 41-45* **"the base serial number is intended to be unique by**

a different base serial number (i.e. users have different and valid register number)

being created with each copy (i.e. users use same data concurrently) **of the Tracker**

client distribution package"].

Snyder and Brandt don't teach that if valid clients (i.e. client have identical

and valid register numbers) don't exceed the original agreed users then the same data

can use concurrently.

However, Khan teaches that if valid clients (i.e. clients have identical and valid register numbers) don't exceed the original agreed users then the same data can use concurrently **[col. 3 lines 28-32 " the server may also track the number of unique users (i.e. users have identical and valid register numbers) accessing the software application and prevent new users from access is when the total number of unique users exceeds a predetermined amount, such as that defined in a licensing agreement"].**

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Khan into the teaching of Snyder and Brandt to determine the number of concurrent users and prevent any new user to use the software if number of users are exceed than the number authorized by software license. The modification would be obvious because one of ordinary skill in the art would be motivated to use active client licensing method so that the system does not rely upon the total number of users or the number of users connected to the system but rather relies on the number of users for whom the server is performing a service at any given time **[Khan, col. 6 lines 41-44]**.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Colosso (US Paten No. 6,169,976) discloses that a method for activating, installing, and regulating use of a licensed product is disclosed. A customer licenses or buys a licensed product from a distributor. The distributor registers information describing the customer, the licensed product, and other information about the transaction at a database maintained by the licensor, manufacturer, or developer of the licensed product. The licensor communicates information describing the transaction to the customer, and the distributor ships media containing the licensed product to the customer.

Richardsin, III (US Patent No. 5,490,216) discloses that a registration system allows digital data or software to run in a use mode on a platform if and only if an appropriate licensing procedure has been followed.

Conte et al (US Patent No. 5,845,065) discloses that a method and apparatus for controlling operation of remote networked devices, such as computers, in compliance with licensed restrictions is provided.

Christiano (US Patent No. 5,671,412) disclose that n improved software license management system in accordance with the present invention is disclosed. A license server initializes a license database by receiving a package license description that includes component license descriptions for component software products in a package.
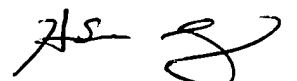
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nirav Patel whose telephone number is 571-272-5936. The examiner can normally be reached on 8 am - 4:30 pm (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NBP

7/11/05

Primary Examiner
Art Unit 2135